

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE B. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 815. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 815.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of six members.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.002. APPOINTED TRUSTEES. (a) Three members of the board of trustees are appointed with the advice and consent of the senate, one each by:

(1) the governor;

(2) the chief justice of the Supreme Court of Texas;

and

(3) the speaker of the house of representatives.

(b) Appointed trustees hold office for staggered terms of six years, with the term of one trustee expiring on August 31 of each even-numbered year.

(c) Before the 11th day after the day on which an appointment is made, the person appointed to the board shall subscribe to the constitutional oath and the oath of office provided by Section [815.004](#).

(d) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 11, eff. Sept. 1, 1993.

Sec. 815.003. ELECTED TRUSTEES. (a) Three members of the

board of trustees are nominated and elected by members of the retirement system and retirees under rules adopted by the board.

(b) Two of the elected members of the board must be members of the retirement system and must hold positions that:

(1) are included in the employee class of membership; and

(2) are not with an agency or department with which another trustee holds a position.

(b-1) The third elected member of the board must:

(1) meet the requirements of Subsection (b); or

(2) be a retiree.

(c) Elected trustees hold office for staggered terms of six years, with the term of one trustee expiring on August 31 of each odd-numbered year.

(d) The board shall hold elections for the members and retirees to nominate and elect a trustee before August 31 of each odd-numbered year. The board shall make ballots available to members of the retirement system and retirees and all votes must be cast on those ballots.

(e) A person elected to the board of trustees must subscribe to the constitutional oath and the oath of office provided by Section 815.004 before beginning his or her term.

(f) The board shall fill vacancies of elected positions on the board for the unexpired terms.

(g) A person elected to the board as provided by this section is required to serve on the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 65, Sec. 1, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 16, eff. Sept. 1, 1997. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 16 (H.B. 917), Sec. 1, eff. September 1, 2021.

Sec. 815.0031. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) A person is not eligible for appointment or

election to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system.

(b) A paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee or an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person who is the spouse of a paid officer, manager, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee and may not be an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not serve as a trustee or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 12, eff. Sept. 1, 1993.

Sec. 815.004. OATH OF OFFICE. (a) Before taking office as a member of the board of trustees, a person shall subscribe to the following oath of office:

I do solemnly swear that I will, to the best of my ability, discharge the duties of a trustee of the employees retirement system, that I will diligently and honestly administer the affairs of the board of trustees of the retirement system, and that I will not knowingly violate or willingly permit to be violated any of the laws applicable to the retirement system.

(b) A person may subscribe to the oath of office before any officer qualified to administer oaths in the state and shall file the subscribed oath in the office of the secretary of state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.005. SUNSET PROVISION. The board of trustees of the Employees Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2029, and every 12th year after that year, are reviewed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 2.02, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 1, eff. September 1, 2017.

Sec. 815.006. COMPENSATION; EXPENSES. (a) Notwithstanding Subchapter C of Chapter 659, trustees who are contributing members of the retirement system serve without compensation but are entitled to reimbursement for all actual and necessary expenses that they incur in the performance of official board duties.

(b) Notwithstanding Subchapter C of Chapter 659, subject to the approval of the board of trustees, trustees who are not contributing members of the retirement system may receive:

(1) compensation; and

(2) reimbursement for all actual and necessary expenses that they incur in the performance of official board

duties.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.006 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 25, eff. Aug. 28, 1995.

Sec. 815.007. VOTING. (a) Each trustee is entitled to one vote.

(b) At any meeting of the board, a majority of the members present is necessary for a decision by the trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.008. GROUNDS FOR REMOVAL OF TRUSTEE. (a) It is a ground for removal from the board if a trustee:

(1) violates a prohibition established by Section [815.0031](#);

(2) cannot discharge the person's duties for a substantial part of the term for which the person is appointed or elected because of illness or disability; or

(3) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the appropriate appointing officer, if any, that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 13, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 22, eff. Sept. 1, 2003.

Sec. 815.009. BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board of trustees may not vote, deliberate, or be counted as a member in attendance at a meeting of the board of trustees until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing the retirement system's operations;

(2) the programs, functions, rules, and budget of the retirement system;

(3) the scope of and limitations on the rulemaking authority of the board of trustees;

(4) the results of the most recent formal audit of the retirement system;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the board of trustees in performing their duties; and

(6) any applicable ethics policies adopted by the retirement system or the Texas Ethics Commission.

(c) A person appointed to the board of trustees is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board of trustees. On receipt of the training manual, each member of the board of trustees shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 2, eff. September 1, 2017.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 815.101. GENERAL ADMINISTRATION. The board of trustees is responsible for the general administration and operation of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.102. RULEMAKING. (a) Subject to the limitations of this subtitle, the board of trustees may adopt rules for:

- (1) eligibility of membership;
 - (2) the administration of the funds of the retirement system;
 - (3) the program of supplemental benefits for law enforcement and custodial officers;
 - (4) hearings on contested cases or disputed claims;
- and
- (5) the transaction of any other business of the board.

(b) Rules adopted under this section related to a hearing on a contested case or disputed claim control over rules adopted under Section [2003.050](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 19, eff. Sept. 1, 2001.

Sec. 815.1025. USE OF ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The board of trustees shall develop a policy to encourage the use of:

- (1) negotiated rulemaking procedures under Chapter [2008](#) for the adoption of the retirement system's rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter [2009](#) to assist in the resolution of internal and external disputes under the retirement system's

jurisdiction.

(b) The retirement system's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The retirement system shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

(d) The board of trustees shall ensure that the implementation of this section and the negotiated rulemaking procedures and alternative dispute resolution procedures adopted under this section are consistent with the fiduciary responsibility imposed on the board by law.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 3, eff. September 1, 2017.

Sec. 815.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees shall administer all assets of the retirement system. The board is the trustee of the system's assets. The board of trustees shall hold all retirement system assets in trust for the exclusive benefit of the members and annuitants of the system and administer all operations funded by trust assets for the same purpose.

(b) The board of trustees may acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which the retirement system's assets may be invested.

(c) The board of trustees may authorize the executive director to acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which assets of the law enforcement and custodial

officer supplemental retirement fund may be invested.

(d) The board of trustees may accept on behalf of the retirement system gifts of money or other property from any public or private source.

(e) Subchapter C, Chapter 2260, does not apply to the retirement system. The acceptance of benefits by the retirement system under a contract does not waive immunity from suit or immunity from liability.

(f) Chapter 412, Labor Code, does not apply to the retirement system. The board of trustees may acquire services described by that chapter in any manner or amount the board considers reasonable.

(g) The retirement system shall comply with cybersecurity and information security standards established by the Department of Information Resources under Chapter 2054.

(h) Notwithstanding any other law, the retirement system has exclusive authority over all aspects of the purchase of goods and services, if the purchase is:

(1) made using money other than money appropriated from the general revenue fund; and

(2) related to the operation of home office facilities used in administering the system, including a purchase related to the administration of tenant leases in the facilities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 20, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 20, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 23, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 52, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 17, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 6, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 100 (S.B. 1831), Sec. 1, eff. May 19, 2023.

Sec. 815.104. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The board of trustees shall file with the comptroller of public accounts a duly attested copy of a board resolution that designates the authorized representatives, as provided by this chapter, who have authority to sign vouchers for payment from the funds administered by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.105. ADOPTING TABLES. At least once every four years, the board of trustees shall adopt mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries under Section [815.206](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. [301](#)), Sec. 4, eff. September 1, 2017.

Sec. 815.106. INFORMATION TO LEGISLATURE. (a) The retirement system may not use any money under its control to influence the outcome of an election or to support the passage or defeat of legislation.

(b) This section does not prohibit the board of trustees, as fiduciaries of the trust fund and as trustees of other programs administered by the board, or the officers or employees of the retirement system, as designees of the board, from making recommendations to the legislature concerning the actuarial soundness of a retirement system administered by the board, the fiscal or legal implications of proposed legislation, or statutory changes designed to more efficiently administer and effectuate the purposes of a retirement system or other program administered by

the board. In addition, the board or an officer or employee of the retirement system may provide to a member of the legislature or a legislative committee, at the request of the member or committee, any factual information that is not made confidential by law.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 17, eff. Sept. 1, 1997.

Sec. 815.107. RECORDS OF BOARD OF TRUSTEES. The board shall keep a record of all of its proceedings. Records of the board are open to public inspection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.109. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error in accordance with Section [802.1024](#) and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., 1st C.S., p. 201, ch. 18, Sec. 17, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. [1176](#)), Sec. 18, eff. September 1, 2005.

Sec. 815.110. AUDITS. (a) The legislative audit committee may contract with an independent and internationally recognized accounting firm with substantial experience in auditing retirement or pension plans to conduct a managerial audit of the retirement system.

(b) The state auditor shall pay the costs of each management audit under this section from money appropriated to the state

auditor and approved for that purpose by the legislative audit committee. Not later than the 30th day after the date the retirement system receives a statement of audit costs paid by the state auditor under this subsection, the retirement system shall reimburse the state auditor for the costs from money in the expense account.

(c) The legislative audit committee may determine the frequency of the audits authorized by this section and may determine the programs and operations to be covered by the audits. The accounting firm selected to conduct the audits shall report the results of those audits directly to the committee.

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the state auditor, and the secretary of state for publication in the Texas Register.

(e) The board of trustees shall select an independent auditor to perform an annual financial audit of the retirement system. The selection shall be in accordance with the requirements of Chapter 2254 for obtaining the services of a certified public accountant.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(b), eff. Aug. 26, 1991. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 26, 27, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 21, eff. Sept. 1, 1999.

Sec. 815.111. MISCELLANEOUS BOARD DUTIES. (a) The board shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system

and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 14, eff. Sept. 1, 1993.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 815.201. PRESIDING OFFICER. The board of trustees shall elect a presiding officer from the membership of the board. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 24, eff. Sept. 1, 2003.

Sec. 815.202. EXECUTIVE DIRECTOR. (a) The board of trustees, by a majority vote of all members, shall appoint a person other than a member of the board to serve at the board's will as executive director.

(b) The executive director is not a member of the board of trustees.

(c) To be eligible to serve as the executive director, a person must:

(1) be a citizen of the United States and have been a resident of the state for the three years immediately preceding the

person's appointment; and

(2) have executive ability and experience to carry out the duties of the office.

(d) The executive director shall recommend to the board of trustees actuarial and other services required to transact the business of the retirement system.

(e) Annually, the executive director shall prepare an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year and shall submit the budget to the board of trustees for review and adoption.

(f) Subject to Section [815.3016](#), the board of trustees may specifically delegate any right, power, or duty imposed or conferred on the executive director by law to another employee of the retirement system. If not so specifically delegated and subject to Section [815.3016](#), the executive director may delegate to another employee of the retirement system any right, power, or duty assigned to the executive director.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 174, Sec. 1, eff. May 25, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.05(a), eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1541, Sec. 22, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. [301](#)), Sec. 5, eff. September 1, 2017.

Sec. 815.203. LEGAL ADVISER. The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.204. MEDICAL BOARD. (a) The board of trustees

shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle and Subtitle D;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the executive director its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding findings it makes in assisting the executive director under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.204 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. [1176](#)), Sec. 19, eff.
September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1121 (H.B. [2384](#)), Sec. 21,
eff. September 1, 2019.

Sec. 815.205. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.205 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.206. ACTUARY. (a) The board of trustees shall designate an actuary.

(b) The actuary must be thoroughly qualified to be the

technical adviser of the board of trustees on matters concerning operation of the funds of the retirement system.

(c) At least once every four years, the actuary, under the direction of the board of trustees, shall:

(1) make an actuarial investigation of the mortality, service, and compensation experience of the members and beneficiaries of the retirement system; and

(2) make a valuation of the assets and liabilities of the retirement system's funds.

(d) On the basis of tables adopted by the board of trustees under Section [815.105](#), the actuary shall make a valuation of the assets and liabilities of the retirement system's funds annually.

(e) The actuary shall perform such other duties as are required by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. [301](#)), Sec. 6, eff. September 1, 2017.

Sec. 815.207. COMPTROLLER. (a) Except as provided by Section [815.302](#) or [815.303](#), the comptroller is the custodian of the securities, bonds, and funds of the retirement system.

(b) The comptroller shall pay money from the funds of the retirement system on warrants drawn by the comptroller supported only on vouchers signed by the executive director and the presiding officer of the board of trustees or their authorized representatives.

(c) The comptroller annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the comptroller's custody.

(d) The board of trustees may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian of all or part of

the retirement system's assets.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 2, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 1, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 8.45, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 26, eff. Sept. 1, 2003.

Sec. 815.208. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) The board of trustees shall compensate all persons whom it employs and shall pay all expenses necessary to operate the retirement system at rates and in amounts approved by the board. Those rates and amounts may not exceed those paid for the same or similar service for the state.

(b) Except as provided by Subsection (c), the board of trustees shall pay compensation and expenses required by Subsection (a) from the expense account.

(c) The board of trustees shall make payments from the law enforcement and custodial officer supplemental retirement fund for services rendered by the actuary for that fund and approved by the board.

(d) The board of trustees may compensate employees of the retirement system, whether subject to or exempt from the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), at the rate equal to the employees' regular rate of pay for work performed on a legal holiday or for other compensatory time accrued, when taking compensatory time off would be disruptive to the system's normal business functions.

(e) The retirement system is exempt from Subchapter K, Chapter 659, and Chapter 660, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 13, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.208

and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 23, eff. Sept. 1, 1999.

Sec. 815.210. INTEREST IN INVESTMENT PROFITS PROHIBITED. Except for an interest in retirement funds as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains or profits of any investment made by the board and may not receive any pay or emolument for services other than the person's designated compensation and authorized expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.210 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.212. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all non-entry-level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for retirement system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of

significant underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 15, eff. Sept. 1, 1993.

Sec. 815.213. ETHICS AND DISCLOSURE REQUIREMENTS. The board of trustees shall adopt an investment policy that includes a code of ethics. The code of ethics must contain standards of ethical conduct and disclosure requirements applicable to the members of the board of trustees and employees of the retirement system in the administration of this subtitle.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 21, eff. Sept. 1, 2001.

Sec. 815.214. SUBPOENA. Notwithstanding any other law, the retirement system may issue a subpoena that conforms to Rule 176, Texas Rules of Civil Procedure, including a preappeal investigative subpoena or any subpoena otherwise authorized by the Texas Rules of Civil Procedure, that the retirement system determines necessary to protect the interests of a program or system administered by the retirement system.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. [2559](#)), Sec. 19, eff. September 1, 2009.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 815.301. INVESTMENT OF ASSETS. (a) The board of trustees shall:

(1) invest the assets of the retirement system as a single fund without distinction as to their source; and

(2) hold securities purchased with the assets described by Subsection (a)(1) collectively for the proportionate benefit of:

(A) all accounts in the trust fund that are listed in Section 815.310(b); and

(B) the law enforcement and custodial officer supplemental retirement fund.

(b) Except as provided by Section 815.3016, the board of trustees may delegate its authority under Subsection (a) to the executive director. Subject to Section 815.3016, the board of trustees or the executive director may, under the standard of care provided by Section 815.307, invest and reinvest any of the retirement system's assets and may commingle assets of the trust fund and the law enforcement and custodial officer supplemental retirement fund with the assets of the Judicial Retirement System of Texas Plan Two for investment purposes, as long as proportionate ownership records are maintained and credited. Investments may include home office facilities, including land, equipment, and office building, used in administering the retirement system.

(c) Subject to Section 815.3016, the board of trustees may contract with private professional investment managers to assist the board in investing the assets of the retirement system.

(d) The board of trustees shall employ one or more well-recognized performance measurement services to evaluate and analyze the investment results of those assets of the retirement system. Each service shall compare investment results with the written investment objectives developed by the board, and shall also compare the investment of the assets of the retirement system with the investment of other public and private funds.

(e) The board of trustees shall develop written investment objectives concerning the investment of assets of the retirement system. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

(f) For purposes of the investment authority of the board of

trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4001.068, 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10).

(g) In awarding contracts to private professional investment managers under Subsection (c) or otherwise acquiring private financial services, the board of trustees shall make a good faith effort to award contracts to or acquire services from qualified emerging fund managers.

(h) For purposes of Subsection (g):

(1) "Emerging fund manager" means a private professional investment manager that manages assets of not more than \$2 billion.

(2) "Private financial services" includes pension fund management, consulting, investment advising, brokerage services, hedge fund management, private equity fund management, and real estate investment.

(i) The retirement system shall report to the board of trustees on the methods and results of the system's efforts to hire emerging fund managers, including data disaggregated by race, ethnicity, gender, and fund size.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 5098, ch. 925, Sec. 3, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5100, ch. 926, Sec. 3, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 91, Sec. 15, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 542, Sec. 5, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(63), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 138, Sec. 1, eff. May 25, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.06(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 791, Sec. 16, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 586, Sec. 28, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 24, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 20, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 7, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.20, eff. January 1, 2022.

Sec. 815.3015. TRACKING AND REPORTING OF PROFIT SHARE.

(a) In this section:

(1) "Alternative investment" means an investment in a private equity fund, private real estate fund, hedge fund, infrastructure fund, or another asset as further defined by rule of the board of trustees.

(2) "Profit share" means an amount received by a private professional investment manager either in consideration for achieving certain investment returns or as part of the negotiated division of investment returns between the private professional investment manager and an investor. The term includes a performance fee, incentive fee, and carried interest.

(b) The board of trustees shall develop a consistent method, guided by best industry practices and standards, to collect or calculate profit share data in connection with alternative investments of the retirement system.

(c) The board of trustees shall consistently track profit share data collected or calculated in accordance with Subsection (b) and the amount of realized gains for the retirement system from the associated alternative investments.

(d) The board of trustees shall report, at a minimum, the aggregate amount of profit shares received by private professional investment managers in connection with alternative investments of the retirement system, categorized by asset class, in the annual financial report required under Section 2101.011 and in other appropriate investment reports and board presentations.

(e) The board of trustees may adopt rules necessary to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 8, eff. September 1, 2017.

Sec. 815.3016. APPROVAL OF CERTAIN ALTERNATIVE INVESTMENTS.

(a) In this section, "alternative investment" has the meaning assigned by Section 815.3015.

(b) The executive director, a private professional investment manager, or any other person delegated authority to invest or reinvest retirement system assets under Section 815.202(f) or 815.301 may not invest retirement system assets in a single alternative investment that exceeds 0.6 percent of the total market value of the trust fund established by Section 815.310 as reported in the most recent annual financial report required under Section 2101.011 unless the board of trustees votes to approve the investment.

(c) The board of trustees may hold a closed meeting by telephone conference call or video conference call to consider and discuss an alternative investment or a potential alternative investment under this section, regardless of whether a quorum is physically present at one location of the meeting.

(d) Chapter 551 does not require the board of trustees to confer with one or more employees, consultants, or legal counsel of the retirement system or with a third party in an open meeting if the only purpose of the conference is to receive information from or question the employees, consultants, or legal counsel of the retirement system or the third party relating to an alternative investment or a potential alternative investment under this section.

(e) During a closed meeting held under this section, members of the board of trustees may not deliberate public business or agency policy that affects public business.

(f) A final action, decision, or vote on a matter considered or discussed in a closed meeting held under this section may only be made in an open meeting that is held in compliance with the notice provisions of Chapter 551.

(g) The board of trustees may adopt rules necessary to implement this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 530 (S.B. 301), Sec. 8, eff. September 1, 2017.

Sec. 815.302. CUSTODY AND INVESTMENT OF ASSETS PENDING

TRANSACTIONS. The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize such custodian to invest the cash so held in such short-term securities as the board of trustees determines, subject only to the provisions of Section 815.301.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 3, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3011 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 2, eff. Aug. 28, 1989.

Sec. 815.303. SECURITIES LENDING. (a) The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules or policies adopted by the board of trustees and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system fully indemnifying the retirement system against loss resulting from borrower default in its operation of a securities loan program for the system's securities; and

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian or securities lending agent collateral in the form of cash or securities that are obligations of the United States or agencies or instrumentalities of the United

States in an amount equal to but not less than 100 percent of the market value, from time to time, as determined by the retirement system, of the loaned securities.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 3, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3012 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 3, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1048, Sec. 18, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. [1664](#)), Sec. 12, eff. September 1, 2011.

Sec. 815.304. NOMINEE TO HOLD SECURITIES. (a) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees.

(b) The records and all relevant reports or accounts of the retirement system must show the ownership interest of the retirement system in these assets and the facts regarding the system's holdings.

(c) A trustee or employee of the retirement system shall have no personal economic interest in any entity listed in Subsection (a), but shall undertake such action and duties with respect to these entities as the board of trustees determines to be in the interest of the retirement system. This subsection does not prohibit:

(1) an interest in the assets as a member of the retirement system;

(2) the right to receive expense reimbursements at the same rate that the board member or employee would have received as a board member or employee; and

(3) such indemnification as is authorized by the board of trustees.

(d) The records of an agent, nominee, or other entity that are maintained by the retirement system are subject to audit by the state auditor.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 77, Sec. 3, eff. Oct. 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3013 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 4, eff. Aug. 28, 1989.

Sec. 815.307. DUTY OF CARE. The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. A determination of whether the board of trustees has exercised prudence with respect to an investment decision must be made taking into consideration the investment of all assets of the trust or all assets of the collective investment vehicle, as applicable, over which the board has management and control, rather than considering the prudence of a single investment of the trust or the collective investment vehicle, as applicable.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 27, eff. Sept. 1, 2003.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1103, Sec. 10, eff. Jan. 1, 2004.

Reenacted by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 21, eff. September 1, 2009.

Sec. 815.308. CASH ON HAND. (a) The board of trustees shall keep a sufficient amount of cash on hand to make payments as they become due each year under the retirement system.

(b) The amount of cash on hand may not exceed 10 percent of the total amount in the funds of the retirement system on deposit with the comptroller, excluding the assets of the law enforcement and custodial officer supplemental retirement fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.305 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.47, eff. Sept. 1, 1997.

Sec. 815.309. CREDITING SYSTEM ASSETS. All assets of the retirement system, except assets of the law enforcement and custodial officer supplemental retirement fund, shall be credited to the trust fund established by Section 815.310.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.306 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.310. TRUST FUND. (a) A trust fund for the Employees Retirement System of Texas is established with the comptroller.

(b) All assets of the trust fund shall be credited, according to the purpose for which they are held, to one of the following accounts:

- (1) employees saving account;
- (2) state accumulation account;
- (3) retirement annuity reserve account;
- (4) interest account; or
- (5) expense account.

Added by Acts 1985, 69th Leg., ch. 91, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.3061 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 17, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 8.48, eff. Sept. 1, 1997.

Sec. 815.311. EMPLOYEES SAVING ACCOUNT. (a) The retirement system shall deposit in a member's individual account in the employees saving account the following amounts, as applicable:

- (1) the amount of contributions to the retirement system that is deducted from the member's compensation;
- (2) the portion of a deposit required to reinstate

service credit previously canceled that represents only the amount withdrawn;

(3) the portion of a deposit required to establish service credit not previously established that represents only the required contribution;

(4) the portion of a deposit required to establish military service credit that represents only the member's contribution for that credit; and

(5) interest and gain sharing interest in accordance with Sections [820.102](#) and [820.103](#), respectively.

(b) Except as provided by Section [820.102](#) or [820.103](#), interest on money in an individual account in the employees saving account is earned monthly and is computed at the rate of two percent a year on the mean balance of the member's account for the fiscal year.

(c) Unless an account is closed before the last day of the fiscal year, interest is computed for the fiscal year and is credited to the member's account as of the last day of the fiscal year.

(d) If a member's account is closed before the last day of the fiscal year, interest is computed for the following period:

(1) if the account is closed because of death, from the first day of the fiscal year through the last day of the month that preceded the month in which the member's death occurred;

(2) if the account is closed by withdrawal of contributions, from the first day of the fiscal year through the last day of the month that precedes the month in which the withdrawal request is validated by the retirement system; or

(3) if the account is closed because of retirement, from the first day of the fiscal year through the effective date of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.307 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. [1459](#)), Sec. 13, eff.

January 1, 2014.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 12, eff. September 1, 2021.

Sec. 815.312. STATE ACCUMULATION ACCOUNT. (a) The retirement system shall deposit in the state accumulation account all contributions for retirement made by the state to the retirement system and transfer to the account the amounts required by Section 815.318 or 815.502.

(b) The retirement system also shall deposit in the state accumulation account the interest portion of the following deposits made by members:

(1) deposits required to reinstate service previously canceled;

(2) deposits required to establish service credit not previously established; and

(3) deposits required to establish military service credit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.313. RETIREMENT ANNUITY RESERVE ACCOUNT. (a) The retirement system shall transfer to the retirement annuity reserve account money as required by Section 815.318, 815.319, or 815.321.

(b) The retirement system shall use the money in the account to pay annuities as provided by this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1111, ch. 252, Sec. 6, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 18, eff. Sept. 1, 1993.

Sec. 815.314. INTEREST ACCOUNT. Except as provided by Section [815.317](#), [820.102](#), or [820.103](#), the retirement system shall deposit in the interest account all income, interest, and dividends from deposits and investments of assets of the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.310 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 13, eff. September 1, 2021.

Sec. 815.315. EXPENSE ACCOUNT. (a) The retirement system shall deposit in the expense account membership fees, money required to be transferred to the account under Section [815.318](#), and any appropriations made by the legislature to the account.

(b) The retirement system shall pay from the expense account administration and maintenance expenses of the retirement system except those expenses the payment of which is provided for by Section [815.208\(c\)](#) or [815.317\(b\)](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.311 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.317. LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND. (a) The retirement system shall deposit in the law enforcement and custodial officer supplemental retirement fund state contributions and other appropriations made by the legislature to the fund and proceeds from investment of the fund.

(a-1) The comptroller shall deposit fees collected under Section [133.102\(e\)\(7\)](#), Local Government Code, to the credit of the law enforcement and custodial officer supplemental retirement fund.

(b) The retirement system may use money from the fund only to pay supplemental retirement and death benefits to law enforcement and custodial officers as provided by this subtitle and to pay for the administration of the fund.

(c) Money appropriated to pay benefits from the fund as provided by this subtitle may not be diverted or used to pay any other benefits.

(d) Member contributions to the fund deducted under Section [815.402\(h\)](#) or [820.101\(b\)](#), as applicable:

(1) earn interest at the same rate as money in an individual account in the employees saving account under Section [815.311](#); and

(2) are subject to the same computations and limitations that apply to member contributions under Section [815.311](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1977, ch. 360, Sec. 2, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.313 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 797, Sec. 4, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 791, Sec. 19, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. [1664](#)), Sec. 13(a), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. [1459](#)), Sec. 14, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 14, eff. September 1, 2021.

Sec. 815.318. TRANSFER OF ASSETS FROM INTEREST ACCOUNT.

(a) The retirement system shall transfer from the interest account to the employees saving account amounts of interest computed under Section [815.311](#) at the following times:

(1) as required during the fiscal year for a member's account in the retirement system that is closed before the last day of the fiscal year; and

(2) as of the last day of the fiscal year for a member's account that is not closed before the last day of the fiscal year.

(b) As required during the year, the retirement system shall transfer from the interest account to the expense account amounts it determines necessary for the payment of the retirement system's expenses that exceed the amount of money available for those expenses.

(c) As of the last day of each fiscal year, the retirement system shall transfer from the interest account to the retirement annuity reserve account an amount equal to:

(1) five percent of the mean amount in the retirement annuity reserve account for that fiscal year; or

(2) an amount computed at a greater rate if the actuary recommends the greater rate to finance adequately the annuities payable from the retirement annuity reserve account.

(d) After making the transfers required by this section, the retirement system, as of the last day of each fiscal year, shall transfer the amount remaining in the interest account to the state accumulation account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 3, Sec. 1, eff. March 12, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.314 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 20, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1231, Sec. 22, eff. Sept. 1, 2001.

Sec. 815.319. TRANSFER OF ASSETS ON RETIREMENT AND RESTORATION TO ACTIVE SERVICE. (a) When a member retires, the retirement system shall transfer:

(1) from the employees saving account to the retirement annuity reserve account, an amount equal to the member's accumulated contributions; and

(2) from the state accumulation account to the retirement annuity reserve account, an amount equal to the difference between the total reserve at present worth reserve value

of the member's retirement annuity and the amount credited to the member's individual account as of the day of retirement.

(b) If a person who receives disability benefits has those benefits terminated under Section [814.210](#), the retirement system shall transfer the balance of the person's retirement reserve from the retirement annuity reserve account to the employees saving account and to the state accumulation account in proportion to the original amount transferred to the retirement annuity reserve account from those accounts.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.315 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.321. TRANSFER OF ASSETS FOR DEATH BENEFIT ANNUITIES. (a) When a member dies who selected or was eligible to select a death benefit plan, or whose beneficiary is eligible to receive an annuity under Section [814.302\(b\)](#) or [814.304](#), the retirement system shall transfer:

(1) from the employees saving account to the retirement annuity reserve account, an amount equal to the member's accumulated contributions; and

(2) from the state accumulation account to the retirement annuity reserve account, an amount equal to the difference between the total reserve, at present worth reserve value, of the death benefit annuity and the amount credited to the member's individual account as of the day of the member's death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 16, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.317 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.322. TRANSFER OF ASSETS TO ADJUST AMOUNT IN RETIREMENT ANNUITY RESERVE ACCOUNT. After making the transfers required by Section [815.318](#), the executive director shall make a

transfer to make the amount in the retirement annuity reserve account equal, as of the last day of each fiscal year, to the actuarial present value of the annuities for which a transfer of assets has been made as required by Section 815.319. The transfer shall be:

(1) a transfer from the retirement annuity reserve account to the state accumulation account of the amount by which the amount in the retirement annuity reserve account exceeds the actuarial present value of the annuities; or

(2) a transfer from the state accumulation account to the retirement annuity reserve account of the amount by which the actuarial present value of the annuities exceeds the amount in the retirement annuity reserve account.

Added by Acts 1987, 70th Leg., ch. 3, Sec. 2, eff. March 12, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.318 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 25, eff. Sept. 1, 1999.

SUBCHAPTER E. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS

Sec. 815.401. COLLECTION OF MEMBERSHIP FEES. (a) Each member annually shall pay a membership fee of \$2. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 815.402 or 820.101, as applicable, for payment of the member's contribution to the retirement system.

(b) If the membership fee is not paid with the member's first contribution of the year to the retirement system, the board of trustees may deduct the amount of the fee from that contribution or from any benefit to which the member becomes entitled.

(c) If the legislature appropriates, on behalf of each contributing member for any fiscal year, a membership fee to be deposited in the expense account in an amount equal to or greater than the membership fee required by Subsection (a), the members are not required to pay the membership fee for that year. The retirement system may apply the membership fee to the

administration of any program administered by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 17, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 21, eff. Sept. 1, 1993.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 15, eff. September 1, 2021.

Sec. 815.402. COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS.

(a) Except as provided by Section 813.201, each payroll period, each department or agency of the state shall cause to be deducted from the compensation of each member, other than a cash balance group member, a contribution of:

(1) 9.5 percent of the compensation if the member is not a member of the legislature, for service rendered after August 31, 2015, and before September 1, 2017;

(2) for service by a member who is not a member of the legislature rendered on or after September 1, 2017, the lesser of:

(A) 9.5 percent of the compensation; or

(B) a percentage of the compensation equal to 9.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the service relates is less than the state contribution rate established for the 2017 fiscal year; or

(3) 9.5 percent of the compensation if the member is a member of the legislature.

(b) To facilitate the making of deductions, the board of trustees may modify a member's required deductions by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deduction is made.

(c) Each department or agency head shall certify to the board of trustees and to the disbursing officer of the department or agency on each payroll, or in another manner prescribed by the

board, the amounts to be deducted from each member's compensation.

(d) The disbursing officer of each department or agency on authority from the department or agency head shall:

(1) make deductions from each member's compensation for contributions to the retirement system;

(2) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll or report to the retirement system; and

(3) pay the amount deducted to the retirement system for deposit in the employees saving account.

(e) The retirement system shall record all receipts of member contributions and shall deliver the receipts to the comptroller. The comptroller shall credit the receipts to the employees saving account.

(f) The deductions required by this section shall be made even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(g) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payment period.

(h) In addition to the contribution under Subsection (a)(1), each department or agency of the state that employs a law enforcement or custodial officer shall deduct an additional 0.5 percent contribution from that member's compensation, to be deposited in the law enforcement and custodial officer supplemental retirement fund, provided that, if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 18, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.402 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.49, eff. Sept. 1,

1997; Acts 2001, 77th Leg., ch. 1231, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. [2559](#)), Sec. 22, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1249 (S.B. [1664](#)), Sec. 14, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. [1459](#)), Sec. 15, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 331 (H.B. [9](#)), Sec. 3, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 16, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 17, eff. September 1, 2021.

Sec. 815.403. COLLECTION OF STATE CONTRIBUTIONS.

(a) During each fiscal year, the state shall contribute to the retirement system:

(1) an amount equal to 9.5 percent of the total compensation of all members of the retirement system for that year;

(2) money to pay lump-sum death benefits for retirees under Section [814.501](#);

(3) an amount for the law enforcement and custodial officer supplemental retirement fund equal to 2.13 percent of the aggregate state compensation of all custodial and law enforcement officers for that year;

(4) money necessary for the administration of the law enforcement and custodial officer supplemental retirement fund; and

(5) money for service credit not previously established, as provided by Section [813.202\(c\)](#) or [813.302\(d\)](#).

(b) Before November 2 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an estimate of the amount necessary to pay the state's contribution under Subsections (a)(1), (a)(2), (a)(3), and (a)(5) for the following biennium; and

(2) as a separate item, an estimate of the amount required to administer the law enforcement and custodial officer supplemental retirement fund for the following biennium.

(c) The amounts certified under Subsection (b) shall be included in the budget of the state that the governor submits to the legislature.

(d) Before September 1 of each year, the retirement system shall certify to the state comptroller of public accounts:

(1) an estimate of the amount necessary to pay the state's contribution under Subsection (a)(1) for the following fiscal year;

(2) an estimate of the amount necessary to pay membership fees for the following fiscal year, if the legislature has appropriated money for that purpose; and

(3) an estimate of the amount required to pay lump-sum death benefits for retirees under Section [814.501](#) for the following fiscal year.

(e) All money allocated and appropriated by the state to the retirement system for benefits provided by the retirement system, except money for the payment of lump-sum death benefits and for the payment of benefits from the law enforcement and custodial officer supplemental retirement fund, shall be paid, based on the annual estimate of the retirement system, in monthly installments to the state accumulation fund. The money required for state contributions and membership fees shall be from respective funds appropriated to pay the compensation of the member for whose benefit the contribution or fee is paid. If the total of the estimated required payments is not equal to the total of the actual payments required for a fiscal year, the retirement system shall certify to the state comptroller of public accounts at the end of that year the amount required for necessary adjustments, and the comptroller shall make the required adjustments.

(f) On certification by the retirement system, the comptroller of public accounts shall transfer from the general revenue fund to the state accumulation account of the retirement system the amount then required for the payment of lump-sum death benefits for retirees under Section [814.501](#).

(g) Repealed by Acts 1995, 74th Leg., ch. 586, Sec. 45(3), eff. Aug. 28, 1995.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 19, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 228, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 22, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 586, Sec. 45(3), eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 20, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.50, eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 18, eff. September 1, 2021.

Sec. 815.4035. COLLECTION OF STATE RETIREMENT CONTRIBUTION.

(a) Except as provided by Section [813.201](#), the board of trustees shall assess each employer whose employees are members of the retirement system a state retirement contribution in an amount equal to 0.5 percent of the employer's total payroll, as determined by the General Appropriations Act.

(b) The board of trustees shall deposit the state retirement contribution to the credit of the trust fund established by Section [815.310](#) to be used for the purposes specified by Section [815.103](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. [1459](#)), Sec. 16, eff. September 1, 2013.

Sec. 815.404. USE OF FEDERAL MONEY. If federal regulations prohibit an agency's use of money provided under federal job training laws as state contributions, an agency shall use other money available to it to make state contributions to the retirement system for affected employees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.406. EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS.

(a) The state shall pick up the employee contribution required of each of its employees by Section 815.402 or 820.101, as applicable, for all compensation earned. The state shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. The state shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the state to the retirement system.

(b) Contributions picked up as provided by Subsection (a) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, the state shall continue to withhold federal income taxes on these picked-up contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414) these picked-up contributions may not be included as gross income of the employee until such time as they are distributed or made available.

(c) Employee contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 815.402 or 820.101, as applicable. Employee contributions picked up by the state and credited to the employee's account shall be treated for all other purposes as if the amount were a part of the member's compensation and had been deducted pursuant to Section 815.403(a).

Added by Acts 1987, 70th Leg., ch. 642, Sec. 3, eff. June 19, 1987.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 19, eff. September 1, 2021.

Sec. 815.407. LEGACY PAYMENTS. (a) In addition to the state contributions required by this subtitle, each fiscal year the state shall make an actuarially determined payment in the amount necessary to amortize the system's unfunded actuarial liabilities by not later than the fiscal year ending August 31, 2054.

(b) Before each regular legislative session, the retirement system shall provide the Legislative Budget Board with the amount necessary to make the actuarially determined payment required under Subsection (a). The director of the Legislative Budget Board, under the direction of the Legislative Budget Board, shall include that payment in the general appropriations bill prepared for introduction at each regular legislative session under Section 322.008. This subsection expires September 1, 2055.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 20, eff. September 1, 2021.

SUBCHAPTER F. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 815.501. STATEMENT OF AMOUNT IN INDIVIDUAL ACCOUNTS.

(a) No later than December 1 of each year, the retirement system shall furnish to each member a statement of the amount credited to the member's individual account as of August 31 of the preceding fiscal year.

(b) In addition to the statement required by Subsection (a), the retirement system shall furnish to a member, on written request, a statement of the amount credited to the member's individual account. The board is not required to furnish more than four of these statements to each member in a fiscal year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 929, Sec. 3, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(c), (g), eff. Aug. 26, 1991.

Sec. 815.5021. PAYMENT TO ALTERNATE BENEFICIARY. If the

retirement system through diligence has not located a primary beneficiary before the expiration of two years after the date benefits became payable to the beneficiary under this subtitle, the retirement system may pay the benefits to an alternate beneficiary or, if there is none, to the estate of the deceased member or annuitant.

Added by Acts 1991, 72nd Leg., ch. 850, Sec. 27, eff. Sept. 1, 1991.

Sec. 815.503. RECORDS. (a) Records of members, annuitants, retirees, beneficiaries, and alternate payees under retirement plans administered by the retirement system that are in the custody of the system or of an administering firm, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the provisions of Chapter 552, except as otherwise provided by this section.

(b) Records may be released to a member, annuitant, retiree, beneficiary, or alternate payee or to an authorized attorney, family member, or representative acting on behalf of the member, annuitant, retiree, beneficiary, or alternate payee. The retirement system may release the records to an administering firm, carrier, or agent or attorney acting on behalf of the retirement system, to another governmental entity having a legitimate need for the information to perform the purposes of the retirement system, or to a party in response to a subpoena issued under applicable law.

(b-1) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(c) The records of a member, annuitant, retiree, beneficiary, or alternate payee remain confidential after release to a person as authorized by this section. The records of a member, annuitant, retiree, beneficiary, or alternate payee may become part of the public record of an administrative or judicial proceeding related to a contested case under Subtitle D or E or this subtitle, and the member, annuitant, retiree, beneficiary, or alternate payee waives the confidentiality of the records, including medical records unless the records are closed to public access by a protective order issued under applicable law.

(d) The retirement system may require a person to provide the person's social security number as the system considers necessary to ensure the proper administration of all services, benefits, plans, and programs under the retirement system's administration, oversight, or participation, or as otherwise required by state or federal law.

(e) The retirement system has sole discretion in determining if a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was a member, annuitant, retiree, beneficiary, or alternate payee, under any retirement plan or program administered by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 27, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 24, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 28, eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. [2559](#)), Sec. 23, eff. September 1, 2009.

Sec. 815.504. REPRODUCTION AND PRESERVATION OF RECORDS.

(a) The retirement system may photograph, microphotograph, or film any record in its possession or preserve the record through electronic document imaging.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction in a conveniently accessible file; and

(2) provides for the preservation, examination, and use of the reproduction.

(c) A photograph, microphotograph, film, or electronic document image of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a record is admissible as evidence equally with the original.

(d) The executive director or an authorized representative may certify the authenticity of a record reproduced under this section and shall charge a fee for the certified copy as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.504 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 347 (S.B. [1176](#)), Sec. 20, eff. September 1, 2005.

Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND CUSTODIAL OFFICERS. Not later than the 12th day of the month following the month in which a person begins or ceases employment as a law enforcement officer or custodial officer, the Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission, the office of inspector general at the Texas Juvenile Justice Department, the Board of Pardons and Paroles, or the Texas Board of Criminal Justice, as applicable, shall certify to the retirement system, in the manner prescribed by the system, the name of the employee and such other information as the system

determines is necessary for the crediting of service and financing of benefits under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.505 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 23, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 688, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 28, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 74 (S.B. 262), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 23, eff. June 8, 2007.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 111, eff. September 1, 2015.

Sec. 815.506. BUDGET AND ACTUARIAL INFORMATION. The retirement system shall keep, in convenient form, data necessary for actuarial valuation of the funds of the retirement system and for checking the system's expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.506 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 815.507. PLAN QUALIFICATION. (a) It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules that modify the plan by adding, deleting, or changing a plan provision, including rules that modify benefits available under the plan.

(b) A rule reducing a benefit provision may not be adopted unless the modification is necessary for the retirement system to be a qualified plan.

(c) A rule adopted under this section, other than a rule adopted under Subsection (b), must be made applicable to all

members and annuitants whose credit or benefits are based on similar service. A rule adopted under this section may include the making or revocation of any election permitted under Section 401(a) or any other provision of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). A rule adopted under this section must comply with Section 811.006 and Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Rules adopted by the board of trustees are to be considered a part of the plan and supersede conflicting portions of existing plan provisions.

(d) In determining qualification status under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system's benefit plan shall be considered the primary retirement plan for members of the retirement system.

Added by Acts 1987, 70th Leg., ch. 642, Sec. 4, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 25.507 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 28, eff. Aug. 26, 1991.

Sec. 815.5071. TRUSTEE-TO-TRUSTEE TRANSFER.

Notwithstanding Section 811.005 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 24, eff. Sept. 1, 1993.

Sec. 815.5072. EXCESS BENEFIT ARRANGEMENT. (a) A separate, nonqualified, unfunded excess benefit arrangement is created outside the trust fund of the retirement system. This

excess benefit arrangement shall be administered as a governmental excess benefit arrangement under Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)). The purpose of the excess benefit arrangement is to pay to annuitants of the retirement system benefits otherwise payable by the retirement system that exceed the limitations on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)).

(b) The board of trustees is responsible for the administration of this arrangement. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities concerning the excess benefit arrangement as it has to the trust fund.

(c) Benefits under this section are exempt from execution to the same extent as provided by Section 811.005, except that the benefits are completely unassignable. Contributions to this arrangement are not held in trust and may not be commingled with other funds of the retirement system.

(d) An annuitant is entitled to a monthly benefit under this section in an amount equal to the amount by which the benefit otherwise payable by the retirement system has been reduced by the limitation on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)). The benefit payable by this arrangement is payable at the times and in the form that the benefit payable under the trust fund is paid.

(e) The benefit payable under this section shall be paid from state contributions that otherwise would be made to the trust fund under Section 815.403. In lieu of deposit in the state accumulation account, an amount determined by the retirement system to be necessary to pay benefits under this section shall be paid monthly to the credit of a dedicated account in the general revenue fund maintained only for the excess benefit arrangement. The account may include amounts needed to pay reasonable and necessary expenses of administering this arrangement. The monthly amount to be paid to the credit of the account shall be transferred to the account at least 15 days before the date of a monthly disbursement under this section.

(f) The board of trustees may adopt rules governing the excess benefit arrangement that are necessary for the efficient administration of the arrangement in compliance with Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)).
Added by Acts 1997, 75th Leg., ch. 1048, Sec. 21, eff. Sept. 1, 1997.

Sec. 815.508. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve.

(b) If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.
Added by Acts 1993, 73rd Leg., ch. 791, Sec. 25, eff. Sept. 1, 1993.

Sec. 815.509. ADVISORY COMMITTEES. (a) The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account.
Added by Acts 1993, 73rd Leg., ch. 791, Sec. 26, eff. Sept. 1, 1993.

Sec. 815.5091. MEMBERSHIP ON ADVISORY COMMITTEE ON INVESTMENTS. (a) The board of trustees may, under the investment duties delegated to the board by Section 67, Article XVI, Texas Constitution, establish an investment advisory committee as the board considers necessary to assist the board in its investment duties.

(b) A person appointed to serve as a member of an advisory committee established by the board of trustees to provide advice to the board on investments and investment-related issues must be:

(1) a person with expertise in the management of a financial institution or other business in which investment decisions are made; or

(2) a prominent educator in the field of economics, finance, or another investment-related area.

(c) A person appointed to serve as a member of a committee described by Subsection (b) shall assist the board of trustees in carrying out the board's fiduciary duties with regard to the investment of the assets of the retirement system and related duties under this chapter and Chapter 609.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1001 (H.B. 2193), Sec. 1, eff. September 1, 2011.

Sec. 815.5092. INELIGIBILITY FOR MEMBERSHIP ON ADVISORY COMMITTEE ON INVESTMENTS. (a) A person is not eligible for appointment to an advisory committee established by the board of trustees to provide advice to the board on investments and investment-related issues if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or

(3) is a paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment.

(b) A person is not eligible for appointment to a committee described by Subsection (a) if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the investment of the assets of this state or of the retirement system.

(c) In this section, "Texas trade association" has the meaning assigned by Section 815.0031.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1001 (H.B. 2193), Sec. 1, eff. September 1, 2011.

Sec. 815.5093. REVIEW OF AND REMOVAL FROM ADVISORY COMMITTEE ON INVESTMENTS. (a) The board of trustees shall at least annually review the eligibility status of members serving on an advisory committee established to provide advice to the board on investments and investment-related issues.

(b) It is a ground for removal from a committee described by Subsection (a) that a person is:

(1) not qualified for appointment to the committee under Section 815.5091 or 815.5092;

(2) unable to discharge the person's duties on the committee because of illness, disability, or other personal circumstances; or

(3) absent from more than half of the scheduled meetings of the committee that the person is eligible to attend during a calendar year.

(c) If the executive director or a member of the advisory committee has knowledge that a potential ground for removal exists, the executive director or committee member shall notify the presiding officer of the board of trustees of the potential ground for removal.

(d) This section does not limit the power of the board of trustees to remove a person from the advisory committee under Section 815.509(a).

(e) The board of trustees may prescribe the process for removal from a committee described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1001 (H.B. 2193), Sec. 1, eff. September 1, 2011.

Sec. 815.510. ANNUAL REPORT. (a) The Employees Retirement System of Texas shall submit a report not later than the 25th day of the month following the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the appropriate oversight committees of the house and senate, and the

Legislative Budget Board. The report shall include the following:

(1) the current end-of-fiscal-year market value of the trust fund;

(2) the asset allocations of the trust fund expressed in percentages of stocks, fixed income, cash, or other financial investments; and

(3) the investment performance of the trust fund utilizing accepted industry measurement standards.

(b) The report required by this section is the only periodic report of investments required to be made by the retirement system other than a report required by Section 815.108 or the General Appropriations Act.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 26, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 22, eff. Sept. 1, 1997.

Sec. 815.511. ADMINISTRATIVE DECISION; APPEAL AND NEGOTIATION. (a) A person aggrieved by a decision of the retirement system relating to any program or system administered by the system under this code denying or limiting membership, service credit, or eligibility for or the amount of benefits payable under the program or system may appeal the decision to the board of trustees.

(b) The executive director or the executive director's designee may refer an appeal made under Subsection (a) to the State Office of Administrative Hearings for a hearing or employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. This subsection prevails over any other law to the extent of any conflict.

(c) An appeal under this section is considered to be a contested case under Chapter 2001. The appellant in a contested case under this section has the burden of proof on all issues, including issues in the nature of an affirmative defense.

(d) The board of trustees may in its sole discretion make a final decision on a contested case under this section. Notwithstanding any other law, the board of trustees may in its sole

discretion modify, refuse to accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001. The board of trustees shall state in writing the specific reason for its determination and may adopt rules for the implementation of this subsection. The board of trustees may delegate its authority under this subsection to the executive director, and the executive director may delegate the authority to another employee of the retirement system.

(e) Notwithstanding Subsections (c) and (d), the retirement system and a person aggrieved by a decision of the system may at any time informally negotiate an award of benefits. Negotiated benefits may not exceed the maximum benefits otherwise available or required by law.

(f) A person aggrieved by a final decision of the retirement system in a contested case under this section is entitled to judicial review under Chapter 2001. Venue of the appeal is only in a district court in Travis County. On judicial appeal the standard of review is by substantial evidence.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 29, eff. Aug. 28, 1995.
Amended by Acts 1999, 76th Leg., ch. 1541, Sec. 29, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 29, eff. Sept. 1, 2003.

Sec. 815.5111. DILIGENT PROSECUTION OF SUIT. The plaintiff shall prosecute with reasonable diligence any suit brought under Section 815.511(f). If the plaintiff does not secure proper service of process or does not prosecute the suit within one year after it is filed, the court shall presume that the suit has been abandoned. The court shall dismiss the suit on a motion for dismissal made by or on behalf of the retirement system unless the plaintiff, after receiving appropriate notice, shows good cause for the delay.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 21, eff. September 1, 2005.

Sec. 815.512. PROTECTION FROM DOUBLE OR MULTIPLE LIABILITY.

(a) The executive director may cause an action for interpleader concerning a claim to be filed on behalf of the retirement system in a district court in Travis County to protect the system from double or multiple liability if the executive director determines that a claim may expose the retirement system to such liability.

(b) A person may not pursue a counterclaim or other cause of action against the retirement system, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system in connection with a transaction or occurrence related to the interpleader action.

(c) A person who violates Subsection (b) is liable for the costs and attorney's fees incurred by the retirement system, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system as a result of the violation.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 23, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 24, eff. September 1, 2009.

Sec. 815.513. EXCLUSIVE REMEDIES. The remedies provided under this chapter are the exclusive remedies available to a member, retiree, beneficiary, or alternate payee.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 21, eff. September 1, 2005.

Sec. 815.514. MAILINGS ON BEHALF OF NONPROFIT ASSOCIATION. The retirement system may make mailings on behalf of a nonprofit association of active or retired state employees described by Section 814.009, for purposes of association membership and research only, to annuitants identified in information contained in records that are in the custody of the system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. 1176), Sec. 21, eff.

September 1, 2005.

Sec. 815.515. DISPOSITION OF UNCLAIMED CONTRIBUTIONS OF FORMER MEMBERS. (a) Subject to Chapters 803 and 805, if the retirement system has not received a request for a refund of the accumulated contributions of a member in accordance with Subchapter B, Chapter 812, before the seventh anniversary of the member's last day of service, the retirement system may refund the accumulated contributions to the member or the member's heirs. If the member or the member's heirs cannot be found, the member's accumulated contributions revert to the retirement system.

(b) The retirement system shall credit any amounts that revert to the retirement system under Subsection (a) to the state accumulation account.

(c) The board of trustees may adopt rules to implement and administer this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1308 (H.B. 2559), Sec. 25, eff. September 1, 2009.